THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION No : 17405 of 2005

Dated: 08-08-2005

Between:

B.Sai Mahesh, S/o. Late B.Appa Rap,

Aged about 17 years, Minor, represented by

His Grand Mother and Guardian, B.Annapurna,

W/o.B.Laxmaiah, aged 65 years,
R/o. Quarter No.M.P.No.62, Malakpet Colony,

Hyderabad.

Petitioner…

And

Government of Andhra Pradesh,

Represented by its Secretary,
General Administration (Accom.C) Department,
Secretariat, Hyderabad and another.

Respondents…

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the proceedings of the 2nd respondent-Estate Officer, dated 14-07-2005, as illegal and arbitrary and for a consequential direction to the respondents not to evict the petitioner from the Government Quarter No.M.P-62, situated at Malakpet Colony, Hyderabad.

It is the case of the petitioner that while his father working in the A.P. High Court as Record Assistant, was allotted a Government Quarter bearing No.M.P.62 situated at Malakpet Colony, Hyderabad. He died on 22-01-2005 while in service. Thereafter, the petitioner approached the

1st respondent seeking permission to stay in the said quarter for a period of four months, and accordingly the

1st respondent considered his request and after lapse of the said period, he approached the 2nd respondent with a request to permit him to stay in the said quarter on the ground that his application for compassionate appointment in the A.P. High Court is pending. Rejecting the said request, the 2nd respondent passed the impugned order directing him to vacate the same within 30 days from the date of his order, dated 14-07-2005. Aggrieved by the same, the present writ petition is filed.

The order impugned is passed by the Estate Officer to which the appropriate remedy is available under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (for short 'the Act'). Section 9(1) of the said Act reads as under:

> *"An appeal shall lie from every order of the estate officer made in respect of any public premises under Section 5 or Section 5-B or Section 5-C or Section 7 to an appellate officer who shall be the district judge of the district in which the public premises are situate or such other judicial officer in the district of not less than ten years' standing as the district judge may designate in this behalf."*

From the above provision, it is clear that if any dispute arises regarding the orders passed by the Estate Officer, the aggrieved person has to approach the District Judge of the District in which the public premises in question situates. Without exhausting the said efficacious alternative remedy, the petitioner has approached this Court by filing the present writ petition.

In the facts and circumstances of the case, without expressing any opinion whatsoever on the merits of the case,

I deem it appropriate to dispose of the writ petition with a direction to the petitioner to avail the alternative remedy, as available to him in law, if he so chooses, by way of filing an appeal before the competent authority, within 30

days from the date of receipt of a copy of this order. In the meanwhile, the respondents are directed not to interfere with the possession of the petitioner over the quarter in question.

The Writ Petition is accordingly disposed of.

No order as to costs.

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ELIPE DHARMA RAO, J

Dated: 08-08-2005

LSK